

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

BOARD OF TRUSTEES OF THE EMPLOYEE
PAINTERS' TRUST, *et al.*,

CASE NO.: 2:22-cv-01645-JHC

Plaintiffs,

**STIPULATION AND ORDER TO STAY
CASE PENDING COMPLETION OF A
SECOND PAYROLL COMPLIANCE
AUDIT**

GLOBAL COATINGS LLC, *et al.*,

Defendants.

NOTING DATE: APRIL 9, 2024

The Plaintiffs, Board of Trustees of the Employee Painters' Trust, *et al.* ("Plaintiffs"), by and through their Counsel, Christensen James & Martin, and Defendants, Global Coatings LLC and Mark Andrew McCalman ("Defendants"), by and through their Counsel, Gordon Thomas Honeywell LLP, hereby stipulate as follows:

1. This case centers on alleged fringe benefit payment obligations arising from the Western Washington Area Agreement for the Professional Painting Industry (“CBA”) between the International Union of Painters and Allied Trades District Council No. 5, Painters Union Local 300 (“Union”), and Defendant Global Coatings, LLC (“Global Coatings”). *See* ECF No. 15 at 2:16-25.

2. The Court previously stayed this case through September 30, 2023, to allow time for Plaintiffs' auditor to perform an audit of the payroll of Global Coatings for the period

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1 November 1, 2017 through March 31, 2022 (“First Audit Period”) and to discuss resolution of
 2 the claims arising from the First Audit Period. *See* ECF Nos. 9, 11, and 13.

3 3. The Parties filed a Joint Status Report and Discovery Plan on October 9, 2023
 4 [ECF No. 15]. Plaintiffs reserved the right to audit Global Coatings’ payroll for the period of
 5 April 1, 2022 forward. *See* ECF No. 15 at 3:4-15.

6 4. The Court entered a Minute Order Setting Trial Date and Related Dates on
 7 October 27, 2023 [ECF No. 17]. Discovery is currently scheduled to be completed by May 10,
 8 2024. *Id.*

9 5. During discovery, the Parties have continued to discuss potential resolution of
 10 the Plaintiffs’ claims arising from the First Audit Period. Based on discussions between the
 11 Parties, a revision of the report for the First Audit Period was recently completed and issued on
 12 April 5, 2024 (“Revised First Audit Report”).

13 6. During discovery, Plaintiffs also requested production of payroll records for the
 14 period from April 1, 2022 forward for the purposes of conducting a second audit. The Parties
 15 have continued to disagree about whether, and to what extent, Global Coatings might have been
 16 bound by the CBA, with Plaintiffs alleging that the CBA continued in force and Defendants
 17 arguing that the CBA’s application was limited and that the CBA was terminated effective as
 18 early as February 28, 2023. The Parties agree that the scope of damages assertable in this case is
 19 directly impacted by the time period that the CBA remained in force, but the termination dispute
 20 has prevented the Parties from moving forward on this issue until recently.

21 7. The Union recently gave notice to the Parties that it considers the CBA
 22 terminated effective February 29, 2024. Defendants reserve the right to argue that the CBA was
 23 limited in scope and/or terminated on an earlier date, but have agreed to produce payroll records
 24 for the period of April 1, 2022 through February 29, 2024 (“Second Audit Period”) to allow
 25 Plaintiffs’ auditor to perform a second audit. The Parties further agree that in the event an audit
 26 of the Second Audit Period reveals additional amounts that Plaintiffs may claim are due, such

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1 claims and damages may be asserted in this Case in the interest of judicial economy. The
2 Defendants reserve all defenses as to such claims.

3 8. Plaintiffs have selected the accounting firm WithumSmith+Brown, P.C.
4 (“Auditor”) to perform the audit of the Second Audit Period.

5 9. Defendants agree that within 14 days after this Order is entered they will provide
6 the Auditor with as many of the labor and financial records requested in Plaintiffs’ First Request
7 for Production of Documents, Requests #s 45-63, as are in Defendants’ possession, custody or
8 control and will further cooperate with any other reasonable request by the Auditor for
9 additional records that the Auditor deems necessary to complete the audit for the Second Audit
10 Period. The Parties agree that documents provided to the Auditor by Global Coatings will be
11 considered documents produced in discovery in this case and will be shared with both Plaintiffs
12 and Defendants. The Parties expressly grant the Auditor permission to share such documents
13 with the Parties.

14 10. The Parties further agree that a 90-day stay of litigation is appropriate to allow
15 time for the audit of the Second Audit Period to be completed, the Auditor to issue a Second
16 Audit Report for review by the Parties and for follow-up efforts to globally resolve the claims
17 and defenses in this case.

18 11. This Stipulation is made to avoid unnecessary expenditure of resources in
19 litigation and is not intended to delay or for any improper purpose.

20 12. The Parties agree that all case deadlines shall be stayed for ninety (90) days from
21 the date of entry of Order on this Stipulation.

22 13. No later than two weeks prior to the expiration of the stay, the Parties will meet
23 and confer and file a joint status report to update the Court on the status of the second audit and
24 how the Parties intend the case to proceed.

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1 14. The stay does not apply to any motions that may be brought by either party to
2 compel compliance with this Stipulation and the disclosure of necessary documents and
3 information to complete the Audit for the Second Audit Period.

4 DATED this 9th day of April, 2024.

5 CHRISTENSEN JAMES & MARTIN

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DATED this 9th day of April, 2024.

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ORDER

Good Cause Appearing, Defendants Global Coatings LLC and Mark Andrew McCalman, shall submit to and cooperate with the audit for the Second Audit Period in accordance with the foregoing Stipulation, and this Case and all deadlines shall be extended and stayed for a period of ninety (90) days in accordance with the Stipulation. All other provisions of the Stipulation are also approved and Ordered.

DATED this 10th day of April, 2024.

John H. Chan

JOHN H. CHUN
United States District Judge

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